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# Congressional Record S. 964 - Interstate Commerce Commission

Mike Mansfield 1903-2001

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# S. 649—INTRODUCTION OF BILL RELATING TO THE INTERSTATE COMMERCE COMMISSION

Mr. MANSFIELD. Mr. President, late in the 91st Congress the Senior Senator from Idaho (Mr. CHURCH) and I introduced legislation which would abolish the Interstate Commerce Commission. Today, I have sent to the desk an identical proposal which, if enacted, would abolish the Interstate Commerce Commission after a 2-year period during which a special committee would be given an opportunity to consider phasing out the Commission and the appropriate transfer of its duties to one or more existing Federal authorities. This legislation is being cosponsored by Senators AIKEN, CHURCH, FULBRIGHT, GOLDWATER, METCALF, MONTOYA, PROXMIRE, and TAFT.

This proposal is not offered lightly by me nor my colleagues. In my own case, it has been only after much thought and consideration of what has become one of the most serious crises in our domestic economy. Surface transportation is badly in need of some new guidance. If the ICC had more forcefully advocated and implemented their existing authority over the past several decades, I am convinced that we would not be in the position we are today. The Commission has been far too willing, in my opinion, to acquiesce in the demands of industry and has not given enough attention to the needs of the shippers and the general public. It is conceivable that the Commission could correct a number of the problems and set our policies in a different direction and avoid abolition. I hope so. Quite frankly, I would like to see the Commission take such steps. I never have, and I do not now, believe that doing away with something is always the answer. But, in this case, if the ICC cannot achieve the necessary reforms, we are going to have to find a better means of promoting sound surface transportation policy in this country.

The complaints I have registered against the Commission fall, generally, into four categories—boxcar shortages, freight rates, passenger train service, and small shipments.

During the 28 years that I have been in the Congress, the one problem that has always seemed to plague the people of Montana and elsewhere is the West, year after year, has been the shortage of freight cars.

In the beginning, the problem arose only during the harvest season or in the very active timber cutting season. Now, it can be almost anytime of the year. A State like Montana, with its large agricultural and lumber resources, is very dependent on the railroads for shipping products to the processing and shipping points in the East and West. The Interstate Commerce Commission has not been able to get the cars moving in the proper direction. I recall periods when certain areas of Montana were requesting as many as 1,000 cars at one time. The western railroads have done a reasonably good job of keeping their rolling stock up to date, but they have found it extremely difficult to get these cars back from the eastern lines. After much discussion and pressure, the ICC has

adopted additional regulations imposing stiffer penalties and fees for the holding of boxcars on nonowner lines. The situation is better than it was, but I do think the ICC was remiss in giving too little attention to this problem many years ago.

Freight rates are a very serious matter in Montana, where we have suffered under high rates as established by the present structure. One of the problems that concerns many of us in the Congress is the Interstate Commerce Commission's attitude on discriminatory rates.

In the past several years, the ICC seems to have given every freight rate request almost automatic approval. Three major increases within 1 year seems to be sufficient evidence. I am delighted, however, that the Commission has now embarked upon an extensive study of the freight rate structure. I hope that this will be of value and expedited.

My next complaint concerns a rapid deterioration of the Nation's passenger train service. I have said on many occasions that I believe that the majority of the Nation's railroads have a very negative attitude about this service. It is in this area that I think the Commission could have been of great help in encouraging and counseling the railroad industry to maintain passenger service. Here again, services have deteriorated in equipment and personnel. The railroads are flagrantly discouraging passenger traffic.

The ICC has approved many discontinuances and mergers which seem to be more in the interest of the carrier's extracurricular financial activities rather than to its railroad responsibilities. In the West, the railroads were given large land grants in the late 1800's as an incentive to extend passenger and freight service to the people of the West. Now, they want to limit these services to freight and a concentration on their "other than" railroad investments. Perhaps the railroads might like to return some of their land grants whenever they abandon their railroad activities. Again, I wish to say that I think the ICC should have played the role of a wise counselor and firm advocate of adequate passenger train service. The Interstate Commerce Commission seems to have been the willing servant of the railroads.

We now are entering upon the era of the Railpax which may or may not be the answer to our passenger train difficulties. I have always been a believer in an efficiently operated network of passenger trains. I think we will see a return to a greater use of the railroads for surface transportation despite the railroads themselves. Improved equipment and roadbeds have proven that this can be done. Our airports are becoming entirely too congested while access to the airports is becoming more difficult and time consuming each year. It would be natural to return to the railroads.

The last major criticism I have is one which has not been with us very long but which I now believe to be quite serious and it is likely to get much worse. This is the deterioration in the handling

of small shipments. In a nation of our size, small shipments are very important to the small businessman and to the individual. What we are now witnessing is overregulation and very poor service. The small shipment problem concerns all surface transportation—railroads, the trucking industry, buslines and the new U.S. Postal Service. It is this area that I think the ICC can, if it desires to, take some steps to improve. The length of shipments time is almost three or four times what it used to be. Several years ago a parcel could be shipped from Montana to the east coast by expedited freight carrier or parcel post in 6 or 7 days. Now, there is no guarantee that it can be done in 3 or 4 weeks.

Incidents of damaged parcels are far greater than they have ever been and the industry is making it more difficult to process claims. It would seem that the general public is at the mercy of the freight carriers. Rates go up and services go down. How long can this last before we find ourselves in an unbelievable mess? I urge that the ICC take the lead in attempting to do something about this.

Before concluding my comments, Mr. President, I wish to say in all candor that I think part of the problem the ICC now faces is that they are no longer, in realistic terms, a regulatory arm of the Congress. Their existence and activities are too dependent upon the budget arm of the executive branch. The Interstate Commerce Commission must have sufficient funds to carry out their responsibilities. In addition to the funding problems, the ICC is also, in my opinion, archaic in some attitudes and procedures. This is 1971 and the problems we face are far more complex and must be faced in these terms.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the *Record* at this point in my remarks and to be followed by a letter sent to the Commission on November 30, 1970, and cosigned by many of my colleagues in the Senate.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill and letter will be printed in the *Record*.

The bill (S. 649) to abolish the Interstate Commerce Commission at a future date and to establish a commission to make recommendations with respect to carrying out the functions of the Interstate Commerce Commission after such date, introduced by Mr. MANSFIELD (for himself and other Senators), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the *Record*, as follows:

S. 659

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

## ABOLISHMENT OF INTERSTATE COMMERCE COMMISSION

SECTION 1. Effective eighteen months after the date of enactment of this Act the Interstate Commerce Commission is abolished.

## ESTABLISHMENT OF COMMISSION TO MAKE RECOMMENDATIONS

SEC. 2. (a) There is hereby established a National Commission on Transportation Reg-



ulation (hereinafter referred to as the "Commission") which shall be composed of fifteen members appointed as follows:

(1) six appointed by the President of the Senate, three from the membership of the Senate, two from the majority party and one from the minority party, and one each to represent carriers subject to regulation pursuant to the Interstate Commerce Act, shippers regularly using such carriers, and consumers generally;

(2) six appointed by the Speaker of the House, three from the membership of the House of Representatives, two from the majority party and one from the minority party, and one each to represent carriers subject to regulation pursuant to the Interstate Commerce Act, shippers regularly using such carriers, and consumers generally; and

(3) three appointed by the President to represent the executive branch of the Government.

(b) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment. The Commission shall elect a Chairman and a Vice Chairman from among its members. Eight members of the Commission shall constitute a quorum.

(c) The Commission shall make a full and complete investigation and study for the purpose of determining and making recommendations with respect to (1) what should be done with the functions of the Interstate Commerce Commission after the abolishment of such Commission pursuant to section 1 of this Act, and (2) what other actions should be taken to best carry out the national transportation policy as set forth in the Interstate Commerce Act.

(d) The Commission shall submit to the President and to the Congress a report with respect to its findings and recommendations not later than one year after the Commission has been fully organized.

(e) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this section hold such hearings, take such testimony, and sit and act at such times and places as the Commission, subcommittee, or member deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission, or any subcommittee or member thereof.

(f) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this section.

(g) Subject to such rules and regulations as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power—

(1) to appoint and fix the compensation of such staff personnel as he deems necessary, and

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed \$100 a day for individuals.

(h) (1) Any member of the Commission who is appointed from the executive or legislative branch of the Government shall serve without compensation in addition to that received in his regular employment, but

shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of duties vested in the Commission.

(2) Members of the Commission, other than those referred to in paragraph (1), shall receive compensation at the rate of \$100 per day for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(i) There are authorized to be appropriated out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this section.

(j) The Commission shall cease to exist ninety days after the submission of its report.

The letter, ordered to be printed in the RECORD, is as follows:

U.S. SENATE,  
OFFICE OF THE MAJORITY LEADER,  
Washington, D.C., November 30, 1970.  
Hon. GEORGE M. STAFFORD,  
Chairman, Interstate Commerce Commission,  
Washington, D.C.

DEAR MR. STAFFORD: The gravity of the present surface transportation situation in the United States cannot be overstated. It is past time for the Interstate Commerce Commission to review its decisions with respect to transportation matters under its jurisdiction and to assess its position. We ask that you consider the long list of decisions which have reduced service, increased costs and permitted the draining of assets so seriously as to imperil the future of rail transportation in the United States.

Two once great railroads, after merger, are bankrupt; another newly merged giant is short of cash; passenger trains have been discontinued, one after the other. In little more than three years, there have been freight rate increases totaling 30 percent, with another increment of 7 percent threatened. Only lately and only partially has the ICC demonstrated its concern with carrier diversification and the consequences of it for rail service. In addition, the box-car shortages on the Western lines are not sporadic anymore; it appears to be a permanent liability.

It would be curious, indeed, if the agency that was established to regulate surface transportation were to be the instrument for the collapse of a vital sector of that industry. The most recent order to permit an 8 percent increase of rail freight rates suggests to us that, despite clear warnings, the Commission remains unaware that to all appearances it has ceased to be a regulatory agency.

Indications at this time lead us to believe that merger considerations, diversifications and increasing labor demands may well result in a transportation crisis of unprecedented magnitude within the next two years. The related effect of this crisis is presently measurable in its effects upon both the rural and urban economic base, regionally and nationally.

Repeated Congressional expressions of concern, not only for rail transportation but for other facets of the economy dependent upon rails, have gone virtually unheeded by the Interstate Commerce Commission.

A review of hearings before the Senate Subcommittee on Surface Transportation clearly indicates by the Commission's own figures that the railroads have been given "substantially everything they have asked for." The Commission's granting of rail requests has had virtually no effect on the decline of rail service.

The Nation is falling into a transportation morass from which certain segments of the economy may never recover. The time

has come for a facing of the realities of this situation and for the concerted action necessary to reverse the present course of events.

Sincerely yours,

Senator Lee Metcalf, Senator Stuart Symington, Senator John Sparkman, Senator Len B. Jordan, Senator Jennings Randolph and Senator Clinton P. Anderson.

Senator Mike Mansfield, Senator George D. Aiken, Senator Stephen M. Young, Senator Quentin N. Burdick, Senator Harold E. Hughes and Senator Abraham Ribicoff.

Senator William Proxmire, Senator Albert Gore, Senator Clifford P. Hansen, Senator Frank Church, Senator Alan Bible, Senator Edward J. Gurney, and Senator B. Everett Jordan.

Senator Thomas F. Eagleton, Senator Howard W. Cannon, Senator Barry Goldwater, Senator Mike Gravel, Senator Edward M. Kennedy, Senator Gaylord Nelson, and Senator Spessard L. Holland.

Senator Strom Thurmond, Senator Birch Bayh, Senator John Sherman Cooper, Senator Gale W. McGee, and Senator Edmund S. Muskie.